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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/563,080	07/18/2006	Roland Mayerhofer	MAYERHOFER	8118
20151 7590 12/22/2008 HENRY M FEIEREISEN, LLC HENRY M FEIEREISEN 708 THIRD AVENUE SUITE 1501 NEW YORK, NY 10017				
EXAMINER ZIMMERMAN, JOSHUA D				
ART UNIT		PAPER NUMBER		
2854				
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12/22/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/563,080

Applicant(s)

MAYERHOFER ET AL.

Examiner

JOSHUA D. ZIMMERMAN

Art Unit

2854

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 September 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 2, 5, 6, 8, and 10-12 are rejected under 35 U.S.C. 102(b) as being anticipated by DE 44 30 430 ('430). For citations used, refer to the attached machine translation.
3. Regarding claim 1, '430 teaches "a method for producing a printing plate (page 1, paragraph 9) for intaglio printing, comprising the steps of introducing depressions and/or lines into a base body made of a brass alloy and/or having an outer layer made of a brass alloy using a laser, wherein the brass alloy has a Vickers hardness which is greater than 140 (page 1, paragraph 9)." While '430 does not specifically disclose the Vickers hardness of the brass alloy used, there is nothing of record to indicate that the brass alloy of '430 is patentably different from the brass alloy of Applicants.
4. Regarding claim 2, '430 further teaches "further comprising the step of removing melt burrs after the introduction of the depressions and/or lines (page 1, paragraph 9: the cleaning and/or polishing steps)."
5. Regarding claim 5, '430 further teaches "wherein the depressions and/or lines and/or a group of depressions and/or lines have depths which are predefined independently of one another (page 1, paragraph 1)." It is noted that "the engraving

according to a desired pattern' meets this limitation since the pattern predetermines the line depths.

6. Regarding claim 6, '430 further teaches "wherein a flat plate is used as the base body (page 2, first full paragraph)."

7. Regarding claim 8, '430 further teaches "further comprising the step of chroming the base body (paragraph bridging pages 2 and 3)."

8. Regarding claim 10, '430 discloses "a printing plate (figures) for intaglio printing, comprising a base body made of a brass alloy and/or having an outer layer made of a brass alloy (page 1, paragraph 9)."

9. Regarding claim 11, '430 further discloses "wherein the base body has depressions and/or lines of different depths, the depths of the depressions and/or lines being independent of a width of the depressions and/or lines (paragraph bridging pages 1 and 2)."

10. Regarding claim 12, '430 further discloses "wherein the brass alloy has a Vickers hardness which is greater than 140 (page 1, paragraph 9)." While '430 does not specifically disclose the Vickers hardness of the brass alloy used, there is nothing of record to indicate that the brass alloy of '430 is patentably different from the brass alloy of Applicants.

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 3, 4, 13 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over '430 in view of Pearlstein et al. (US 3578468).

13. Regarding claim 3, '430 teaches all that is claimed, including a cleaning and polishing step which removes burrs (paragraph 9). '430 fails to teach that the burrs are removed using a chemical posttreatment. Pearlstein et al. teach a chemical posttreatment step for the removal of burrs and/or polishing and/or cleaning (column 1, lines 58-65). Therefore, at the time of the invention, it would have been obvious to one having ordinary skill in the art to use the chemical posttreatment step of Pearlstein et al. in the method of '430 in order to polish and/or clean the engraved surface.

14. Regarding claim 13, Pearlstein et al. further teach "wherein the melt burrs are removed using an acid bath (column 1, lines 58-65)."

15. Regarding claim 4, Pearlstein et al. further teach "wherein the acid bath comprises acetic acid, phosphoric acid, and nitric acid (column 1, lines 58-65)."

16. Regarding claim 15, Pearlstein et al. further teach "wherein the acid bath comprises approximately 40 volume-percent acetic acid, 50 volume-percent phosphoric acid, and 10 volume-percent nitric acid (column 1, lines 58-65)."

17. Claim 3 is alternately rejected, and claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over '430 in view of Wada (US 3720021).

18. Regarding claim 3, '430 teaches all that is claimed, including a cleaning and polishing step which removes burrs (paragraph 9). '430 fails to teach that the burrs are removed using a chemical posttreatment. Wada teaches a chemical posttreatment step for removing burrs wherein an electrolytic bath is used to remove burrs (column 2, lines 36-42). Therefore, at the time of the invention, it would have been obvious to one having ordinary skill in the art to use an electrolytic bath in the method of '430 in order to remove any burrs.

19. Claims 7 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over '430 in view of Giori (US 2004/0232108).

20. Regarding claim 7, '430 teaches all that is claimed, but fails to expound upon the specifics of the laser system used. Giori teaches a method of producing an engraved plate wherein a laser "which is movable in at least two different directions that are essentially parallel to the flat plate" is used in order to effectively engrave the metal plate (paragraphs 8, 9, and 12; figure 9b, paragraph 65). Therefore, at the time of the invention, it would have been obvious to one having ordinary skill in the art to use the laser engraving system of Giori in the method of '430 in order to effectively engrave the metal plate.

21. Regarding claim 9, Giori further teaches "further comprising the step of monitoring emission of laser pulses by a control device (paragraph 64, figure 9b)."

Response to Amendment/Arguments

22. The declaration under 37 CFR 1.132 filed 09/19/08 is insufficient to overcome the rejection of claims 1-15 based upon '430 as set forth in the last Office action because: Affiant has merely stated his opinions, and has failed to set forth facts which would qualify as evidence that the alloy used in the '430 reference does not anticipate the alloy in the instant claim 1.

23. Furthermore, Affiant's statement (and Applicant's argument) that the printing plate of '430 would not be 'applicable to Intaglio printing' is not persuasive, since it has been held that claims can only be distinguished based upon their structure, not on their intended use or function. Thus, in the instant application, a recitation of a printing plate *for intaglio printing* can only be distinguished from other printing plates by structure alone. Since there have been no positive recitations of *structure* (or of the processing steps to arrive at the structure of the specific alloy layer) which would distinguish over the plate of '430, it is still deemed that the printing plate of '430 meets all of the *claimed* structural limitations. See MPEP 2112.01 and 2114.

Conclusion

24. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOSHUA D. ZIMMERMAN whose telephone number is (571)272-2749. The examiner can normally be reached on M-R 8:30A - 6:00P, Alternate Fridays 8:30A-5:00P.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Nguyen can be reached on 571-272-2258. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Art Unit: 2854

If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Joshua D Zimmerman
Examiner
Art Unit 2854

jdz

/Leslie J. Evanisko/
Primary Examiner, Art Unit 2854